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| 10/613,396 | 07/03/2003 | Karsten Andersen | 032287-102 | 4469 |

7590 01/27/2006
Robert E. Krebs
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164

EXAMINER

GUTMAN, HILARY L

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| ART UNIT | PAPER NUMBER |
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3612

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Supplemental
Office Action Summary

Application No.

10/613,396

Applicant(s)

ANDERSEN ET AL.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-31 is/are pending in the application.
- 4a) Of the above claim(s) 8,20 and 25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-14, 16-18 and 28-30 is/are allowed.
- 6) ☒ Claim(s) 9, 10, 15, 19, 21-24, 26 and 27 is/are rejected.
- 7) ☒ Claim(s) 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

SUPPLEMENTAL DETAILED ACTION

Applicant noted errors in the last office action (mailed 10/4/05) and a supplemental action is set forth below. The after final amendment will not be entered at this time. The examiner apologizes for these errors and an inconvenience caused.

Claim Objections

1. Claims 20 and 25 are objected to because of the following informalities: claim 20 depends off of itself and claim 25 depends off of claim 20. For the purposes of examination these claims will not be treated on the merits. Appropriate correction is required.

2. Claims 1, 27, and 31 are objected to because of the following informalities:

In claim 1, on line 5, "end;" should perhaps be "end, and a deck;". On line 15, the "pedestal means" should perhaps specify "first and second pedestal means".

In claim 27, on line 2, "mounting a system" should be "mounting system".

In claim 31, on line 3, "container" (both occurrences) should be "containers".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 15, 19, 22-24, and 26-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "bolt holes" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 19 recites the limitation "a flat surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 22 recites the limitation "two pedestals" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites the limitation "said pedestals" in lines 4 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites the limitations "a first type of wind turbine tower section" in lines 2-3 and "a second type of wind turbine tower section" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-10 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by French.

For claim 9, French (4,745,952) discloses a system for transporting tank containers, the system comprising: a) a vehicle car having a first end and a second end; b) first deck slot pedestal means affixed to the floor of the first end of said railroad car; c) second deck slot pedestal means affixed to the floor said railroad car and spaced apart from said first deck slot pedestal means; d) end stop means (Figure 2) affixed to the floor of the first end of said vehicle car; e) a first bracket connected to said first deck slot pedestal means, said first bracket being constrained from lateral motion by said end stop means; and, f) a second bracket connected to said second deck slot pedestal means.

With regard to claim 10, said first deck slot pedestal means is connected to said first bracket by twist lock connectors which constitute the end stop means. (See marked-up copy of Figures 4, 6, and 8, hereto attached).

Allowable Subject Matter

7. Claims 1-6, 11-14, 16-18, and 28-30 are allowed.
8. Claim 31 is objected to as containing a minor informality, but would be allowable if rewritten to overcome the informality.
9. Claims 15, 19, 22-24, and 26-27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments (mailed 7/29/05) with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. However, some issues warrant a response set forth below.

With regard to the restriction requirement, the applicant requests the examiner to “identify Species A and B to claims, not to figures.” The examiner is not obligated nor required to set forth the restriction with regard to the claims. The examiner directs the applicant’s attention to the MPEP and specifically to MPEP section 809.02(a) which states that the examiner clearly identify each disclosed species. The species are “preferably identified as the species of figures 1, 2, and 3 (see section (B)). Furthermore, to be complete, the applicant must reply to the restriction and include “a listing of all claims readable thereon, including any claims subsequently added”.

Applicant assumes incorrectly that the Examiner has withdrawn the restriction requirement concerning Species C and D and further incorrectly assumes that the examiner has withdrawn her restriction requirements concerning Species A and B. On the contrary, the examiner found the restriction requirement deemed “proper” and therefore made FINAL in the last action (mailed 5/4/05).

If the applicant has additional questions or concerns regarding the restriction requirement, the examiner requests applicant direct his attention to MPEP chapter 800.

With regard to claims 1-6, the applicant's arguments have been considered but are moot.

With regard to claim 9-10, the examiner has included a marked-up copy of French which

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more clearly shows all of the features of the claimed invention as now amended and more broadly recited and interpreted.

11. Applicant's arguments (mailed 1/9/06) have been considered in part and a response is set forth below:

With regard to the finality of the rejection, the examiner agrees with the applicant's argument that a new ground of rejection was set forth for claim 1. The examiner has removed this rejection in view of a claim objection. With regard to claims 15, 19, 22-24, and 26-27, these claims (as of the amendment filed 7/29/05) were newly added and new rejections were warranted. With regard to the 102 rejection with French, the applicant substantially amended claims 9-10 (in the amendment of 7/29/05) to warrant the new rejection.

With regard to the drawings, the examiner has reconsidered the objection, now moot.

With regard to the 112 rejection of claim 15, the applicant states that "bolt holes" are recited in claim 14, the exact reason the rejection is set forth. Specifically bolt holes of claim 15 were previously recited in claim 14 so "the" or "said" should precede "bolt holes" in claim 15.

With regard to the 112 rejection of claim 22, it is unclear if and/or how the two pedestals of claim 22 relate to the previously recited four pedestals of claim 21 from which claim 22 depends. Are these means to be the same pedestals previously recites or new and distinct pedestals. The applicant should modify the language of at least claim 22 for clarity.

With regard to the 102 rejection of claim 9-10 and 21-23 using French, the rejection is hereby maintained (see above rejection).

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With regard to the restriction requirement, the examiner notes the requirement was made FINAL in the action mailed 5/4/05. Applicant is free, however, to file continuing or divisional applications.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 571-272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Hilary Gutman
January 19, 2006

